



# **POLICY BRIEF**

## **Legal Action for Ending Corporal Punishment**

BANGLADESH LEGAL AID AND SERVICES TRUST (BLAST)

## Introduction

This policy brief summarizes legal and other initiatives over the past five years to address corporal punishment since the landmark High Court judgment of 2011 banning all forms of corporal punishment in schools.

We hope this will be useful first, for all those trying to implement the High Court judgment, and existing laws and regulations for children's protection, and second, for driving much needed legal reform to stop violence against children, especially in schools.

## Context

Parents, employers, caregivers and teachers often resort to beating children ignoring the detrimental effect on their development. In the absence of comprehensive legal coverage, an overwhelming number of children continue to be disciplined in educational institutions, custodial centres, workplaces and households through corporal punishment.

A 2009 UNICEF survey noted numerous incidents of corporal punishment of children at homes and schools across Bangladesh. The study included 4,000 households, and interviewed children between 9-18 as well as the heads of those households. Data was collected through focus group discussions and case studies. The research found that more than nine out of every 10 children (91%) suffered physical punishment at school and poor children were more prone to suffer from it than rich children. Just over three-fourths (76%) of the students were hit on their palms with a ruler or stick. Other punishments included being forced to stand in class, being hit with a ruler or stick and being slapped. Almost a quarter (23%) of the students said they faced corporal punishment on a daily basis and 7% reported injuries and bleeding as a result. Corporal punishment was one of the top four reasons of these children not attending school.

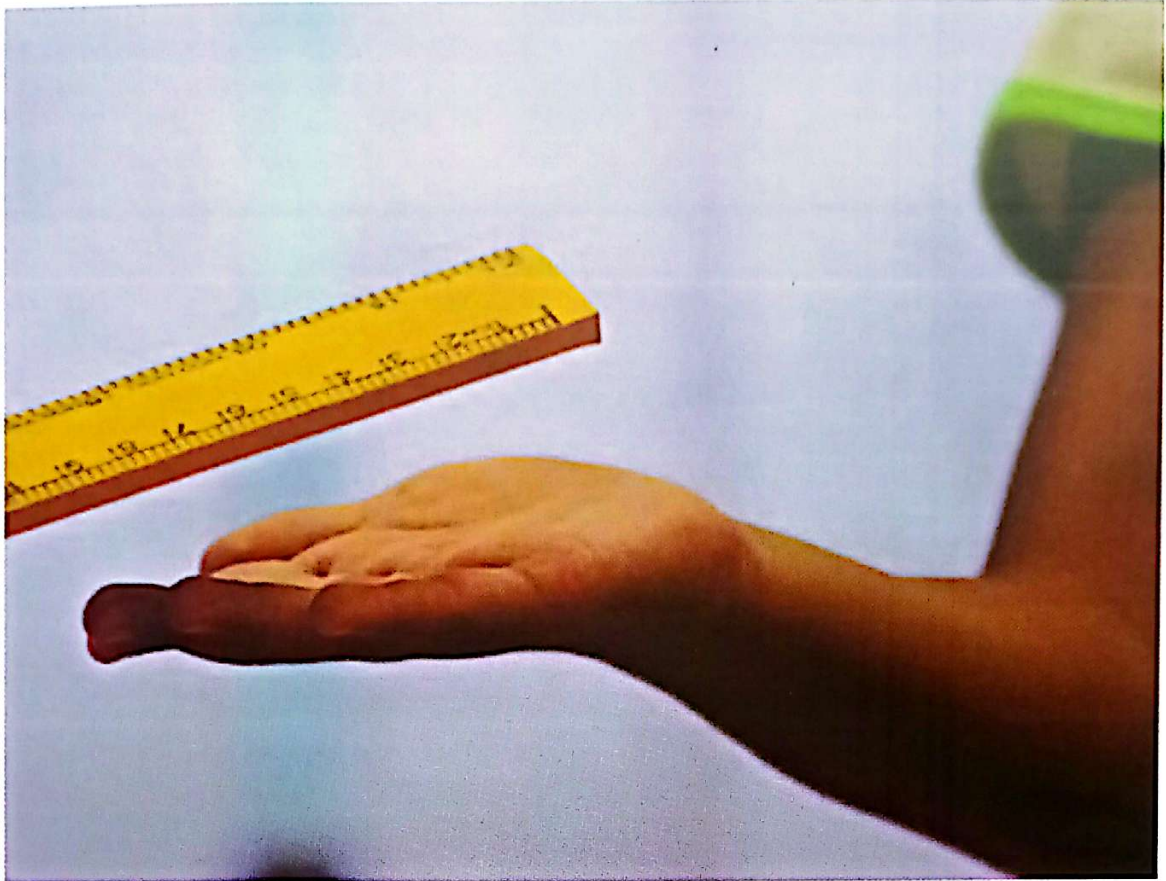
A smaller study from 2012 had more than three quarters (77.1%) of the students saying they went through physical, psychological or financial punishment at schools. Almost half (48.4%) of the parents surveyed knew of such punishment at schools and 34.9% teachers said children at their schools were given physical punishment.

Attitudes towards corporal punishment have been slow to change. A 2012-13 study by the Bangladesh Bureau of Statistics and UNICEF<sup>1</sup> found that a third of all respondents believed physical punishment was required to raise or educate a child properly. 35.1% of persons with no educational attainment and 41.7% people in poor households believed that physical punishment was necessary to discipline children.<sup>2</sup>

1 Bangladesh Bureau of Statistics (BBS) & UNICEF Bangladesh (2014), Bangladesh Multiple Indicator Cluster Survey 2012-2013, Progotir Pathay: Final Report, Dhaka, Bangladesh: Bangladesh Bureau of Statistics (BBS) & UNICEF Bangladesh. Available at: [http://www.unicef.org/bangladesh/MICS\\_Final\\_21062015\\_Low.pdf](http://www.unicef.org/bangladesh/MICS_Final_21062015_Low.pdf) [Accessed 26 Dec. 2015].

2 Global Initiative to End All Corporal Punishment of Children. Country Report for Bangladesh. (2015). [online] Available at: <http://www.endcorporalpunishment.org> [Accessed 11 Dec. 2015].





Most recently, the Bangladesh Child Rights Forum identified 345 media reports<sup>3</sup> of corporal punishment over two years (2013-2014) showing a slight increase of 2.86%.

A perception study by BLAST in 2016 revealed that almost half (49%) the parents/caregivers surveyed reported that students are primarily hit with a cane, duster or ruler at school when they don't listen. Other forms of punishment included beating, verbal abuse, isolation, smacking and ridicule.<sup>4</sup>

### **Timeline of BLAST activities**

Since 2010, BLAST has reviewed media reports on allegations of corporal punishment in schools and referred 42 such cases to the Bangladesh National Human Rights Commission (BNHRC) for action.<sup>5</sup>

3 Bangladesh Shishu Adhikar Forum (BSAF), (2014). State of Child Rights in Bangladesh 2014. [online] Available at: <http://bsafchild.net/pdf/State-of-Child-Rights-in%20Bangladesh-11112014.pdf> [Accessed 26 Dec. 2015].

4 The study, conceived by BLAST, aimed to assess the knowledge, attitude and perceptions of duty bearers, including parents and teachers, regarding the practice of corporal punishment in educational institutions. The Nielsen Bangladesh Company Ltd. won the bid to conduct the study and completed it in December 2016.

5 From 01 January 2010 to 01 January 2017, BLAST referred around 42 complaints to the Commission about corporal punishment in various educational settings. The media scan covers five newspapers, two in English (Daily Star and Dhaka Tribune) and three in Bangla (Prothom Alo, Bangladesh Protidin and Daily Samakal), and several online newspapers (BDNews.com, OnlineBanglaNewspaper.com) including some district level online media (e.g AmaderSylhet.com).



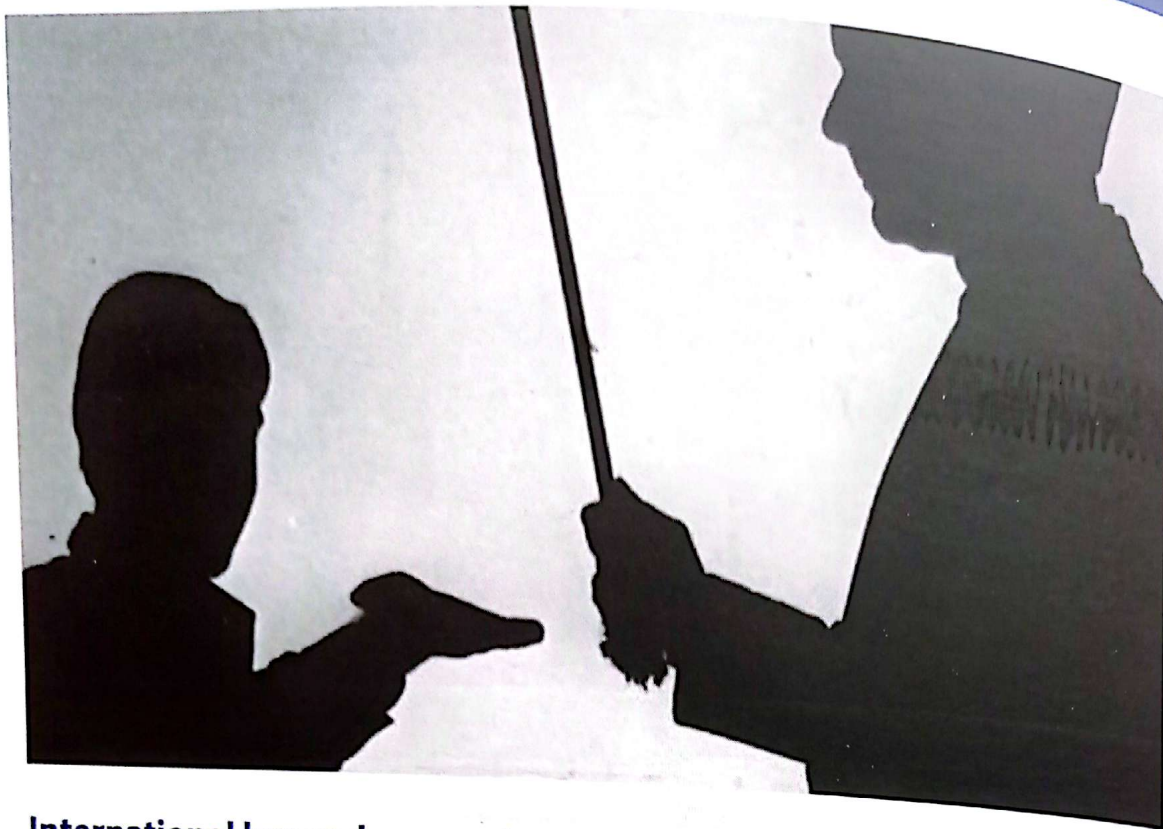
Legal Initiatives to Address Corporal Punishment in Schools	
18 July 2010	The national press reported fourteen <sup>1</sup> incidents of corporal punishment in schools between March and July, including allegations of caning, beating and chaining students by teachers. In one case a 10-year old committed suicide after being beaten at school. In response, BLAST and Ain o Salish Kendra (ASK) filed a public interest writ petition with the High Court. The High Court asked the home ministry and education ministry to explain why no action was being taken to investigate and prosecute those responsible.
9 August 2010	The education ministry banned corporal punishment in schools and madrassahs through a circular setting out duties and responsibilities of people concerned. <sup>2</sup>
13 January 2011	The High Court held that corporal punishment constituted a clear violation of children's fundamental rights to life, liberty and freedom from cruel, inhuman and degrading treatment and declared it unconstitutional. <sup>3</sup> The High Court ordered the education ministry to include a provision in teachers' service rules regarding disciplinary measures in schools. With respect to laws allowing corporal punishment the High Court said, "We are of the view that laws which allow corporal punishment, including whipping under the Penal Code, Code of Criminal Procedure, Railways Act, Cantonment Pure Food Act, Whipping Act, Suppression of Immoral Traffic Act, Children Rules, 1976 and any other law which provides for whipping or caning of children and any other persons, should be repealed immediately by appropriate legislation as being cruel and degrading punishment contrary to the fundamental rights guaranteed by the Constitution."
21 April 2011	The education ministry issued guidelines prohibiting physical and psychological punishment in all educational institutions. <sup>4</sup>
24 November 2011	BLAST submitted a memorandum <sup>5</sup> to the Bangladesh Law Commission calling for the repeal of nine laws <sup>6</sup> that permit corporal punishment of children.
27 December 2011	BLAST held a meeting to discuss the High Court judgment and the need for implementation of such a landmark judgment. Nurul Islam Nahid, Hon'ble Minister of Education, committed to an awareness campaign across Bangladesh about the harmful effects of beating children and to disseminate the government circular.
27 December 2011	BLAST published a report titled "Ending Corporal Punishment" supported by Save the Children with the summary and full text of the High Court judgment. <sup>7</sup>
26 June 2012	BLAST and Institute of Informatics and Development (IID) jointly conducted a study from 2011 to 2012 to explore the status of violence against children in schools. It was conducted in 10 districts among teachers, students, parents and school management committee members. <sup>8</sup>
3 November 2013	CAMPE (Campaign for Popular Education) led a civil society consultation collecting recommendations from NGOs including BLAST, <sup>9</sup> and submitted these to the Education Ministry to include a separate provision in the draft Education Bill prohibiting corporal punishment.
10 November 2015	Primary Education Minister, Advocate Mustafizur Rahman MP, announced at a national meeting with education officers, teachers, and school management committee members, lawyers, journalists and grassroots citizen's groups that there would be an initiative to monitor progress of ending corporal punishment.





10 January 2016	BLAST and Save the Children published a report on the National Human Rights Commission's role in implementing the High Court judgment, which examined the commission's mechanism and outcomes for responding to complaints regarding corporal punishment. The report recommended measures for action by the primary education, education, home affairs, law and, women and children affairs ministries.
28 February 2016	<p>The Primary and Mass Education Minister, Adv. Mostafizur Rahman MP, met with representatives from BLAST, Save the Children and CAMPE and arranged to issue a circular specifying that:</p> <ul style="list-style-type: none"> <li>(i) Circulars (2010 Government Circular and 2011 Government Guidelines) are to be displayed visibly at the head masters' room of all schools.</li> <li>(ii) Appointment letters of teachers must specify their role in preventing corporal punishment.</li> <li>(iii) Corporal punishment should be included in the DC and UNO quarterly coordination meeting agenda.</li> <li>(iv) Ending corporal punishment should be included as a criterion for the annual best school award.</li> <li>(v) Corporal punishment should be verified during inspections by Upazila Education Officer &amp; Assistant Upazila Education Officer.</li> </ul>
21 December 2016	BLAST held a national consultation meeting on the status and challenges of ending corporal punishment at schools addressed by officials of relevant ministries and departments, Justice M. Imaan Ali, the author of the High Court judgment, and representatives of the NHRC, SAIVEC, NACG, CAMPE and the Child Rights Advocacy Coalition in Bangladesh. The meeting shared results of an upcoming study on Perception Study to Track Changes Attitude/Practice/Justice Seeking Behaviour around Ending Corporal Punishment in Bangladesh.





### International law and corporal punishment

Bangladesh ratified the United Nations Convention on the Rights of the Child (CRC) 1989 on 3 August 1990 with reservations on Article 14 (related to legal guardian) and Article 21 (related to adoption). In its report to the UN Committee on Child Rights, the Government of Bangladesh said, "The issue of corporal punishment was taken by the GoB very seriously and to prevent corporal punishment in all settings, especially in schools, several measures were taken, including issuing special instructions to all schools, bringing the perpetrators to justice, providing trainings on alternative forms of disciplining and creating mass awareness against corporal punishment."<sup>6</sup>

The CRC prohibits all forms of corporal punishment in all settings. Through ratification of treaty, Bangladesh is legally bound to take legislative measures to ensure the implementation of all its provisions.

### CRC Articles Relevant to Corporal Punishment

- ARTICLE 3**
1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
  3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform to the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

<sup>6</sup> See Bangladesh Report on the CRC published on 15 December 2014 on [http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/countries.aspx?CountryCode=BGD&Lang=EN](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/countries.aspx?CountryCode=BGD&Lang=EN)



**Article 12**

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

**Article 13**

The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.

**Article 16**

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, or correspondence, nor to unlawful attacks on his or her honour and reputation.
2. The child has the right to the protection of the law against such interference or attacks.

**Article 19**

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.
2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

**Article 28**

States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

**Article 37**

States Parties shall ensure that: (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment.

Bangladesh is also party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984. Under this Convention the term "torture" includes "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as [.....], punishing him for an act he or a third person has committed or is suspected of having committed" and it obliges the State to provide protection under the law against such cruel and unusual punishment.

The International Covenant on Civil and Political Rights (ICCPR) 1966 also includes provisions that prohibit any form of physical punishment or abuse of children. The ICCPR was ratified by Bangladesh on 06 September 2000. In its most recent report, Bangladesh noted that the Law Commission had prepared a number of reports on reform of laws for promotion of human rights, including abolition of corporal punishment, but did not elaborate upon the content of the reports.<sup>7</sup>

<sup>7</sup> See full report at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=C-CPR%2fC%2fBGD%2f1&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=C-CPR%2fC%2fBGD%2f1&Lang=en)



## ICCPR Articles relevant to Corporal Punishment

<b>ARTICLE 7</b>	No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment
<b>ARTICLE 10</b>	All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person
<b>ARTICLE 24</b>	Every child shall have, without any discrimination as to race, colour, sex, language, religion, nationality or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.
<b>ARTICLE 26</b>	All persons are equal before the law and are entitled without any discrimination to the equal protection of law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any grounds such as race, colour, sex, language, religion, political or other opinion, nationality or social origin, property, birth or other status.

The United Nations Committee on the Rights of the Child made a number of concluding observations to Bangladesh<sup>8</sup> which included the following:

### ● Regarding corporal punishment

The Committee expressed its concerns about the high instance of violence reported in families, schools and institutions, alternative care settings, day care and penal institutions and as punishment for crime. It stated, "In the light of its general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, the Committee urges the State party to promote positive, non-violent and participatory forms of child-rearing and discipline, conduct awareness-raising programmes on this prohibition and create mechanisms for its fulfilment. The Committee also recommends strengthening the training of officials responsible for law enforcement on children's rights."<sup>9</sup>

The Committee also called on the government "to systematically involve communities and civil society, including non-governmental and children's organisations, in planning, implementing, monitoring and evaluating all state-supported policies, plans and programmes relating to children's rights" and "to ensure that children and young people are actively consulted and involved in the preparation and implementation of laws, policies and programmes affecting them, and pay particular attention to the active involvement of children in vulnerable situations, including children with disabilities, minority children, refugee children, and children in street situations."<sup>10</sup>

8 United Nations: Office of the High Commissioner, (2015). Concluding observations on the fifth periodic report of Bangladesh. [online] Committee on the Rights of the Child. Available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/BGD/CO/5&Lang=En](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/BGD/CO/5&Lang=En)

9 Ibid.

10 Ibid.





*Primary Education Minister Mostafizur Rahman speaks at a discussion on ending corporal punishment where Rasheda K Chowdhury, head of Campaign for Popular Education, was also present among others.*

## **Legal status of corporal punishment in Bangladesh**

Article 32 of the Constitution states that no person shall be deprived of life or personal liberty. Article 31 entitles every citizen to be protected by law, and Article 35 (5) states that no person shall be subjected to cruel, inhuman, or degrading punishment or treatment.

Bangladesh is yet to directly outlaw corporal punishment through legislation. Although government circulars and the High Court judgment prohibit corporal punishment in schools, there is no legislation that prohibits corporal punishment in all settings.

The first government circular of 9 August 2010, issued by the Education Ministry<sup>11</sup> bans corporal punishment in schools and madrassahs. It also sets out the duties of those concerned, including education officers and school management committee members:<sup>12</sup>

- Corporal punishment of children is absolutely prohibited in all educational institutions;
- Corporal punishment shall be considered to constitute misconduct;
- District Education Officers and Upazila Secondary Education Officers shall take effective measures against persons imposing corporal punishment under the Bangladesh Penal Code 1860, the Children Act, 1974 and, where appropriate, through initiating departmental action;

<sup>11</sup> Government Circular Memo No.37.031.004.02.00.134.2010.

<sup>12</sup> Government Circular Regarding Corporal Punishment in Educational Institutions No.37.031.004.02.00.134.2010 of 09/08/2010). Available at: <http://www.blast.org.bd/content/publications/cp-booklet-english.pdf> [Accessed 5 Jan. 2016]



- Heads of educational institutions shall take necessary steps in their own institutions to end corporal punishment;
- School management committees shall take steps in their own institutions to identify teachers who impose corporal punishment and shall take remedial measures in accordance with the school's rules;
- Inspectors of relevant offices, departments and boards of education shall monitor corporal punishment and mention such matters in their inspection reports.

The second government circular issued by the education ministry — Guidelines on Prohibiting Physical and Psychological Punishment in All Educational Institutions 2010<sup>13</sup> — marked a significant development in corporal punishment as for the first time it:

- Defined corporal punishment;
- Identified persons responsible for taking action to prevent corporal punishment including school management committee members, head teachers, teachers and employees of educational institutions; and
- Stated that any education/academic professional who engages in physical or psychological punishment of students will be prosecuted.

**The Guidelines define and list acts that constitute corporal punishment:**

Nature of Corporal Punishment	Definition
Physical punishment	<p>Any kind of physical assault, used as a form of discipline by a teacher on any student, including the following acts:</p> <ul style="list-style-type: none"> <li>● Hitting or caning any student by using hand/foot or any other thing;</li> <li>● Throwing a duster/chalk or any other material on a student;</li> <li>● Punching or pinching;</li> <li>● Biting any part of the body;</li> <li>● Pulling by the hair or cutting hair;</li> <li>● Inserting a pencil between two fingers and bending under pressure;</li> <li>● Pushing or shoving by the shoulder;</li> <li>● Pulling by the ears or making someone sit up or down;</li> <li>● Making any person stand or kneel by putting their head under a table/chair or anything else;</li> <li>● Making any person stand or lie down in or stand facing the sun;</li> <li>● Making any student do any act prohibited by the Labour Act.</li> </ul>
Psychological Punishment	<ul style="list-style-type: none"> <li>● Any comment to any student in the classroom such as an obscene comment regarding his/her parents, family, caste, race, religion.</li> <li>● Making any indecent gesture or any behaviour that may create an untoward reaction in the mind of the student.</li> </ul>

<sup>13</sup> Guidelines to Prohibit Physical and Psychological Punishment in All Educational Institutions (No. 37.031.004.02.00.134.2010-151).



**The Guidelines also identify the following duties:**

Duties	Responsible Authority
<ul style="list-style-type: none"> <li>● Take necessary steps to implement the Circular and Guideline enacted by the Ministry.</li> <li>● Inform concerned person about the negative effects of corporal punishment.</li> </ul>	Heads of Educational Institutions
<ul style="list-style-type: none"> <li>● Adopt a resolution to take necessary steps/to build awareness in relation to ending physical and mental punishment.</li> <li>● Regularly monitor concerned field officers, and help to implement the guidelines.</li> </ul>	School Management Committee and School Administration
<ul style="list-style-type: none"> <li>● Train teachers, officers and employees regarding ending corporal and mental punishment.</li> <li>● Amend teaching methods and the assessment process to make the learning process more attractive and enjoyable.</li> </ul>	The School Authority and concerned authorities, departments and directorates
<ul style="list-style-type: none"> <li>● Students shall not be required to do any physical work beyond the curriculum.</li> <li>● Students shall not be encouraged to do any risky/dangerous work.</li> <li>● Guardians shall be made aware about the nature of corporal and mental punishment, so that unjustified allegations are not made.</li> </ul>	All the duty bearers mentioned above

The National Children Policy 2011<sup>14</sup> prohibits all forms of punishment of children at educational institutions.

Clause 6.5.6: All forms of physical and mental punishment in educational institutions shall be prohibited and a child friendly system of imparting lessons be introduced so that the children and the adolescents do not have any physical and mental injury.

Clause 6.5.4: Measures shall be ensured for reflection of constitutional guarantees in all levels of education and making the children aware of the independence, sovereignty and integrity.

Clause 6.5.8: The government shall take steps for raising the quality and standard of education and with this end in view, necessary steps shall be taken for imparting improved training to the teachers and maintaining child friendly improved surroundings in the educational institutions.

<sup>14</sup> GOB, National Children Policy, 2011, MOWCA, Dhaka 2011. This includes chapters on safe child birth (clause 6.1), child poverty reduction (clause 6.2), child health (clause 6.3), pre-primary education (clause 6.4), education (clause 6.5), recreation and sport (clause 6.6), child protection (clause 6.7), disadvantaged children (clause 6.8), autistic children (clause 6.9), birth registration (clause 6.10), "backward" and minority children (clause 6.11), protection of children at times of distress or natural disasters (clause 6.12), children's participation and opinion (clause 6.13), adolescent development (clause 7), development of the girl child (clause 8), elimination of child labour (clause 9) and implementation measures (clause 10). Available at: [http://mowca.portal.gov.bd/sites/default/files/files/mowca.portal.gov.bd/policies/7c672d20\\_d211\\_48cb\\_8e6b\\_702f21c799c5/National-Child-Policy-2011-English-04.12.2012.pdf](http://mowca.portal.gov.bd/sites/default/files/files/mowca.portal.gov.bd/policies/7c672d20_d211_48cb_8e6b_702f21c799c5/National-Child-Policy-2011-English-04.12.2012.pdf)



Finally, Clause 6.5.12: Necessary steps shall be taken for further improvement of the administration system to ensure intensive monitoring and effective assistance to the programs run by the educational institution.

A pre-constitutional law, Section 39 (2) of the Intermediate and Secondary Education Ordinance 1961<sup>15</sup> requires teachers to follow certain prescribed standards in taking any disciplinary action against students for indiscipline and misconduct. The regulations adopted<sup>16</sup> under the ordinance specify that teachers must take into consideration three issues when imposing punishment for a particular misconduct or indiscipline:

- the punishment must never be in any way cruel;
- a punishment that occupies a pupil in the open air can be more beneficial than a punishment which confines the pupil in a classroom; and
- where possible, the punishment should take the form of a useful occupation.

The Ordinance and the Regulations however only apply to children who are 10 years and above in age in secondary schools, intermediate colleges, and intermediate sections of degree colleges.

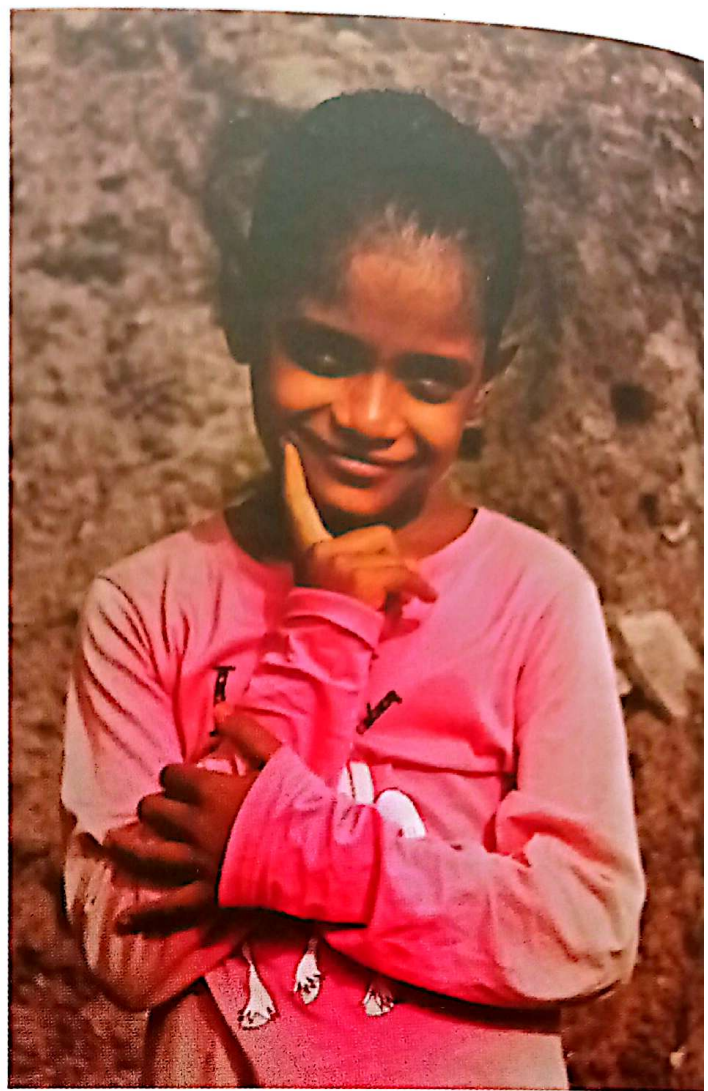
Section 89 of the Penal Code provide that anything done in good faith for the benefit of the child under twelve years of age, or of sound mind, or by consent of the guardian, is not an offence even if it may cause harm to the child. Exceptions to this section apply to any situation involving intentionally causing of grievous harm, unless it is to prevent death or grievous hurt or curing of grievous disease or infirmity.

However, Section 91 of the Penal Code makes it clear that any hurt which itself would amount to a criminal offence is not covered by such exceptions. So for example, beating a child with a cane causing a bleeding injury would be an offence of voluntarily causing hurt (under Section 323 of the Penal Code) and so would not be covered by the exception under Section 89 of the Code.

Section 70 of the Children Act 2013 expressly provides legal protection to children against physical violence:

<sup>15</sup> See Ordinance at: [http://bdlaws.minlaw.gov.bd/pdf\\_part.php?id=318](http://bdlaws.minlaw.gov.bd/pdf_part.php?id=318) [Accessed 10 Dec. 2015]

<sup>16</sup> See regulations under Section 39 of the Intermediate and Secondary Education Ordinance 1961. Available at: [http://bdlaws.minlaw.gov.bd/sections\\_detail.php?id=318&sections\\_id=16191](http://bdlaws.minlaw.gov.bd/sections_detail.php?id=318&sections_id=16191) [Accessed 5 Jan. 2016]





Nature of physical violence against a child	Punishment
70. Penalty for cruelty to child. If any person assaults, ill-treats, neglects or forsakes any child under his custody, charge or care, or leaves him unprotected, uses him for personal service, or exposes him in an indecent way, and if such assault, ill-treatment, negligence, forsaking, abandonment, use in personal service or exposure causes unnecessary sufferings to the child or creates such an injury to his health that leads to loss of his eyesight or hearing or causes injury to any limb or organ of his body and causes any mental derangement, the person shall be deemed to have committed an offence under this Act.	Maximum 5 years jail, maximum fine of 1 lakh BDT, or both

While Section 70 of the Children Act 2013 could arguably be invoked in cases of corporal punishment in any setting, it appears till now to have been read narrowly to only apply to situations where there is a caregiver, guardian or another individual looking after/supervising the child. It has not been invoked in any reported cases of corporal punishment in schools. The possible reasons may be as follows:

- It does not mention 'corporal punishment' or 'punishment' of a child;
- The word 'unnecessary' before 'suffering' suggests infliction of suffering is permitted if deemed 'necessary';
- It only applies to extreme cases where the child's sight/hearing is damaged or there is an injury to any part/organ;
- It does not address psychological suffering (such as stress, depression, attention disorder as a consequence of humiliation or demeaning behaviour from the teacher) caused by corporal punishment.

Citizens' groups made recommendations to include provisions addressing corporal punishment in the draft Education Bill made available for public consultation in 2015.

State reports to the United Nations Committee on the Rights of the Child in 2015 have noted that the following measures are in process:

- Issuance of the "Ban on Corporal Punishment Policy and Guideline 2015"
- Enactment of Children Rules 2015

## Recommendations

### To Government

Sl.	Recommendations	Responsible Authority
1.	Act on the High Court judgment calling for an immediate repeal of laws authorizing whipping and corporal punishment of children, and review the proposals submitted to relevant Ministries/Law Commission (about Section 53 of the Prison Act, 1884, Section 130 of the Railways Act, 1890 Sections 3, 4 and 5 of the Whipping Act, 1909, Section 4 of the Borstal Schools Act, 1928, and Sections 3-11, 13 and 23(1) of the Cantonments Pure Food Act, 1966).	Law Commission/Ministry of Law, Justice and Parliamentary Affairs



2.	Amend Section 70 of the Children Act 2013 so that punishments (both physical and psychological) inflicted by a teacher constitute 'misconduct'. Also incorporate in the Act the list of types of corporal punishment stated in the GoB Circular dated 21 April 2011 and set out the remedies available to the child.	Law Commission/Ministry of Law, Justice and Parliamentary Affairs / Ministry of Women and Children Affairs and NGOs/CSOs working on child rights issues
3.	Ensure the expeditious incorporation into law of the 'Prohibition of Corporal Punishment Policy and Guideline 2015', which provides for ending physical and humiliating punishment of children in all settings. <sup>10</sup>	Ministry of Women and Children Affairs / Ministry of Education
4.	Immediate adoption of Children Rules 2015.	Ministry of Women and Children Affairs
5.	Include a separate provision in the draft Education Act prohibiting corporal punishment in educational settings.	Ministry of Education / Ministry of Law, Justice and Parliamentary Affairs and CSOs
6.	Establish an independent Child Rights Commission.	Ministry of Women and Children Affairs / NHRC,B.

#### To Civil Society Organizations/ Child Rights Advocates

Sl.	Recommendations	Responsible Bodies/ Authorities
1.	Undertake concerted efforts to implement the High Court judgment of banning corporal punishment through advocacy, communication and awareness raising in working areas. Build a social movement against corporal punishment in all settings.	All CSOs and child rights advocates.
2.	Advocacy to repeal laws permitting corporal punishment.	Advocacy with the Law Commission Bangladesh/ Legislative and Drafting Wing of the Ministry of Law, Justice and Parliamentary Affairs/relevant Ministry.
3.	Strengthen the NHRC,B as an effective forum for redressing corporal punishment. Take steps to follow up with NHRC,B on referred complaints. Call for the appointment of trained counsellors and special educators in every school and madrassah for children who are particularly vulnerable, including children with disabilities.	CSOs to engage with the NHRC,B and the Ministry of Education.
4.	Disseminate information through Union Information Centres, print, electronic and social media to spread the word that corporal punishment is prohibited and is a punishable offence.	CSOs to seek engagement of Access to Information (A2I) project under the Prime Minister's Office, and media.



5. Organize district-level consultations and follow-up meetings with officials, district and primary education officers, Child Welfare Board, like-minded organizations, child psychologists, guardians, teachers, children, and the media, for common approaches and action against corporal punishment of children.
- CSOs to collaborate with members of the District Administration and others

## Endnotes

- 1 Khan, Arafat H. (2011). Ban on Corporal Punishment in Upholding Rule of Law. Forum (A monthly publication of the Daily Star), [online] (Issue 6, Volume - 5). Available at: <http://archive.thedailystar.net/forum/2011/june/ban.htm> [Accessed 10 Dec. 2015].
- 2 Government Circular Regarding Corporal Punishment in Educational Institutions No.37.031.004.02.00.134.2010 of 09/08/2010). Available at: <http://www.blast.org.bd/content/publications/cp-booklet-english.pdf> [Accessed 5 Jan. 2016]
- 3 BLAST & ASK vs Bangladesh & Others [2010] Writ Petition No. 5684 of 2010 (High Court Division of the Supreme Court of Bangladesh) reported at 63 DLR (2011) 643. See full judgment at: [http://blast.org.bd/content/judgement/wp\\_5684of2010.pdf](http://blast.org.bd/content/judgement/wp_5684of2010.pdf)
- 4 Guidelines to Prohibit Physical and Psychological Punishment in All Educational Institutions (No. 37.031.004.02.00.134.2010-151).
- 5 For full text of the memorandum please see: <https://www.blast.org.bd/content/memorendum/memorendumcpfinal.pdf>
- 6 Currently, there are five laws that allow for corporal punishment which are Sections 3, 4 and 5 of the Whipping Act 1990, Section 130 of the Railway Act 1890, Sections 3-11, 13 and 23(1) of the Cantonments Pure Food Act, 1966; Section 53 of the Prison Act, 1884 and Section 4 of the Borstal Schools Act 1928.
- 7 Report Accessible at: <https://www.blast.org.bd/content/publications/cp-booklet-english.pdf>
- 8 See more at: <http://iidbd.org/category/partner/blast/>
- 9 A delegation from CAMPE comprising stakeholders from NGOs (including INGOs), Teacher Unions, Education Watch and other concerned groups met the Hon'ble Minister of Education Mr. Nurul Islam Nahid, MP and his team in his office and submitted the compiled and edited version of Civil Society recommendations on the draft Education Act 2013. Additional Secretary and Joint Secretary of MoE and the DG/Chairman of concerned government agencies including NCTB, NAEM, Board of Intermediate and Secondary Education, Dhaka, DTE, DSHE were present. Further details on the meeting can be found at: <http://www.campebd.org/Details.php?DetId=19>
- 10 See the written replies of the Government of Bangladesh to the list of issues prepared by the Committee of the Convention on the Rights of the Child in consideration of the fifth periodic report of Bangladesh. Accessible at: [http://mowca.portal.gov.bd/sites/default/files/files/mowca.portal.gov.bd/page/6768565c\\_9b45\\_4aed\\_b390\\_919a52462d6c/CRC\\_draft\\_final\\_15.6.2015\\_bn.pdf](http://mowca.portal.gov.bd/sites/default/files/files/mowca.portal.gov.bd/page/6768565c_9b45_4aed_b390_919a52462d6c/CRC_draft_final_15.6.2015_bn.pdf)





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Community Legal Services  
কমিউনিটি লিগ্যাল সার্ভিসেস

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